

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

CITY OF CHICAGO, ILLINOIS,

VS .

No. T08-0046

CSX TRANSPORTATION, INC.

Petition for authorization to reconstruct the Laramie Avenue Bridge from Roosevelt Road to Lexington Street, an elevated viaduct and roadway located over the tracks of the CSX Transportation, Inc., in the City of Chicago, County of Cook and State of Illinois and for funding from the Grade Crossing Protection Fund.

Chicago, Illinois
February 10, 2009

Met, pursuant to notice, at Chicago.

BEFORE :

LATRICE KIRKLAND-MONTAQUE, Administrative Law Judge

APPEARANCES :

CITY OF CHICAGO, by
MR. JACK A. PACE
30 North LaSalle Street
Room 900
Chicago, Illinois 60602
(312) 744-6997

for the City of Chicago;

1 FEDOTA CHILDERS, PC, by
2 MR. PAUL D. STREICHER
3 70 West Madison Street
4 Suite 3900
5 Chicago, Illinois 60602
6 (312) 853-9627
7 for CSX Transportation, Inc.;

8 ILLINOIS COMMERCE COMMISSION, by
9 MR. BRIAN VERCROYSSSE
10 527 East Capitol Avenue
11 Springfield, Illinois 62701
12 (312) 636-7760
13 for Staff.

14 ALSO PRESENT:
15
16 Mr. Dan Burke, IDOT

17
18 SULLIVAN REPORTING COMPANY, by
19 Alisa A. Sawka, CSR
20 License No. 084-004588
21
22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-direct</u>	<u>Re-cross</u>	<u>By Examiner</u>
None.					

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
None.		

1 JUDGE KIRKLAND-MONTAQUE: By the power vested
2 in me by the State of Illinois and the Illinois
3 Commerce Commission, I now call Case No. T08-0046.
4 This is in the matter of a petition for authorization
5 to reconstruct the Laramie Avenue Bridge from
6 Roosevelt Road to Lexington Street in the City of
7 Chicago.

8 May I have appearances, please.

9 MR. PACE: On behalf of the City of Chicago
10 Jack Pace -- It's spelled P-a-c-e -- senior counsel,
11 30 North LaSalle Street, Suite 900, Chicago, Illinois
12 60602. My phone number is (312) 744-6997. And with
13 me today is Mr. Dan Burke of the Chicago Department
14 of Transportation.

15 MR. STREICHER: Good morning, your Honor. My
16 name is Paul Streicher, S-t-r-e-i-c-h-e-r. I
17 represent CSX Transportation, Inc. My office address
18 is 70 West Madison Street, Suite 3900, Chicago. My
19 office telephone is area code (312) 853-9627.

20 MR. VERCRUYSSSE: Thank you. Good morning.
21 Representing Staff for the Commission, Brian
22 Vercruysse V-e-r-c-r-u-y-s-s-e. Address at 527 East

1 Capitol Avenue, Springfield, 62701. Phone number
2 (312) 636-7760. Thank you.

3 JUDGE KIRKLAND-MONTAQUE: Okay. I believe this
4 is a status hearing with which you all are planning
5 to update the Commission on plans for this particular
6 project.

7 So if you want to proceed, Mr. Pace,
8 you may.

9 MR. PACE: Certainly.

10 Your Honor, just briefly -- and I'll
11 let Mr. Burke enter more detail and answer any
12 questions that the Commission or anyone else has.

13 I want to just say that we have had a
14 major breakthrough in the planning and in terms of
15 utility relocation issues that at the last status
16 hearing Mr. Naragreen mentioned were the ones that
17 were -- they were working on at the time. So since
18 that last status hearing, those issues have been
19 resolved. And, therefore, we are moving forward on
20 the plans for the project.

21 In that regard, we have executed on
22 behalf of the City of Chicago a Preliminary

1 Engineering Agreement that was submitted to us by the
2 Railroad, and we sent it back for their signature.
3 That document should allow the Railroad, at this
4 point, to review on a preliminary basis the plans
5 that we are working on.

6 In that regard, I will let Mr. Burke
7 give you some milestones that we have in our planning
8 project -- proceed our plans. I would say that we
9 are looking forward to bidding out the project in
10 June of 2009. So we would be looking and working
11 towards a Commission order sometime before that to
12 allow us to bid the project in June.

13 MR. DAN BURKE: Yes, certainly, as Mark alluded
14 to we've solved a number of the open issues on the
15 project. The design team is proceeding in earnest.

16 The milestone dates from our latest
17 schedule are March 13 for a submittal of prefinal
18 plans to all the involved agencies for review and
19 comments -- corporation and turnaround of those
20 comments. The final plan submittal would be -- the
21 final plan submittal to the Illinois Department of
22 Transportation is set for 5/15. We're looking for

1 bid authorization from the State of Illinois on
2 June 12th and to advertise the project for
3 construction on June 26th. The June 26th
4 advertisement would result in approximately early
5 August for a contract award and construction
6 commencement.

7 MR. PACE: Mr. Burke, I just want to ask you a
8 question on one of those dates.

9 MR. DAN BURKE: Yes.

10 MR. PACE: You mentioned May 15th for final
11 plans to IDOT?

12 MR. DAN BURKE: I'm sorry if I misstated.
13 Prefinals --

14 MR. STREICHER: March.

15 MR. PACE: I think you mentioned earlier it was
16 April for final plans.

17 MR. DAN BURKE: Yes, and I apologize. I
18 misread the schedule.

19 MR. STREICHER: Okay. So April 15th or 17th
20 for final plan submittal? Is that -- those dates?
21 Is that right?

22 MR. DAN BURKE: March 13th for prefinals;

1 finals June -- pardon me. June 15 is for finals --
2 June 15th for final plan submittal.

3 MR. STREICHER: Can we go off the record for a
4 minute, please?

5 JUDGE KIRKLAND-MONTAQUE: Sure. Let's go off
6 the record.

7 (Whereupon, a discussion was had
8 off the record.)

9 MR. DAN BURKE: Final submittal 5/15 -- May
10 15th.

11 MR. VERCRUYSSSE: The actual bid opening, do you
12 know which letting date it is?

13 MR. DAN BURKE: The City of Chicago doesn't
14 have fixed letting dates.

15 MR. VERCRUYSSSE: Okay. That's all I needed.
16 Thank you.

17 MR. DAN BURKE: There will be letting times
18 that are available.

19 MR. PACE: Your Honor, as you've already
20 probably seen now from the petition, this is a --
21 quite a large project.

22 JUDGE KIRKLAND-MONTAQUE: Right.

1 MR. PACE: And we understand that, you know,
2 this time frame is probably somewhat ambitious. But
3 we would like -- you know, obviously we will work as
4 hard as we can with the Railroad and the other
5 agencies in getting any information that they would
6 like in terms of reviewing the plans and so forth.

7 So, you know, let's take it one step
8 at a time at this point. But I think that -- that we
9 can accomplish this if we put our heads together, I
10 guess.

11 So having said that, I don't know if
12 there's any other questions of the Commission or
13 Staff or the Railroad.

14 JUDGE KIRKLAND-MONTAQUE: Okay. Mr. Streicher.

15 MR. STREICHER: Thank you, Judge.

16 On behalf of CSXT I can confirm that
17 my client has received the PEA executed by the City
18 of Chicago and it will be executed shortly by my
19 client and returned. And, that, in reviewing my file
20 was a negotiated process as well. So I'm glad that
21 that piece is done, that is the contract that will be
22 between the City and CSXT to provide for the review

1 of the plans which will be forthcoming by my client
2 and its consultants as well.

3 This is a major project that could
4 substantially impact on my client's operation, so I
5 understand Mr. Pace's statement that his timetable is
6 ambitious for getting my client plans May 15th and
7 then having bid authorizations go out less than a
8 month from that.

9 I mean, certainly, my client will do
10 what it can to help expedite that process, but we
11 have only received very preliminary plans back in
12 April of 2008, which I'm sure have very little
13 bearing on what the actual plans are going to be.

14 So while we will do what we can,
15 I'm -- I just have a concern that we may be a little
16 overly ambitious; but we'll try.

17 JUDGE KIRKLAND-MONTAQUE: Mr. Vercruysse.

18 MR. VERCruysse: Thank you, your Honor.

19 Could you go through as far as your
20 construction schedule -- we've gotten to the point
21 where you want to commence work in early August. I
22 just want to see if there is advance work or other

1 things that are taking place that might alleviate
2 concerns as far as an aggressive schedule, utility
3 relocate work to start first, that sort of thing.

4 MR. DAN BURKE: Certainly.

5 MR. VERCRUYSSSE: Thank you.

6 MR. DAN BURKE: Prior the -- the utility
7 relocate the Office of Underground Coordination work
8 is going out in the next few weeks, the protection of
9 existing facilities with the site plans and a
10 notation to the utilities to prepare -- prepare that
11 work.

12 MR. VERCRUYSSSE: That would be mid February,
13 Mr. Burke? I'm sorry --

14 MR. DAN BURKE: Yes.

15 MR. VERCRUYSSSE: -- so it's starting mid
16 February right now.

17 MR. DAN BURKE: Yes.

18 MR. VERCRUYSSSE: Two weeks or so. All right.

19 MR. DAN BURKE: In the next two weeks the
20 Office of Underground Coordination Protection of
21 Existing Facilities release will go out.

22 MR. VERCRUYSSSE: Okay. Thank you.

1 And then after that your -- how the
2 project might lay out.

3 MR. DAN BURKE: Then after that the -- I mean,
4 the onus is on us to complete the design plans to get
5 them to the CSXT in a timely manner, turn around and
6 review and then -- really, we've done all the advance
7 work we can. And then in terms of -- in terms of
8 getting it done the next step really is for us to get
9 a bid in to getting a general contractor on board and
10 then to begin the discussions of track closure and
11 entry permits and all that necessary thing.

12 MR. VERCRUYSSSE: Right.

13 MR. DAN BURKE: So we're -- I mean, the process
14 is happening. We're doing everything to
15 facilitate --

16 MR. VERCRUYSSSE: Sure. How long do you
17 anticipate the construction, the actual work to --

18 MR. DAN BURKE: One year.

19 MR. VERCRUYSSSE: One year. Okay. Able to work
20 through the entire winter possibly --

21 MR. DAN BURKE: Yes. Yes, we -- you can't
22 perform all activities, but we will be able to

1 continue working through the winter's time. There
2 won't be a winter shutdown.

3 MR. VERCRUYSSSE: Okay. As far as the current
4 cost estimate, the petition that had been submitted
5 had us at about 18 million or so. Can you give us
6 the date of your latest cost estimate and what we
7 stand at currently.

8 MR. DAN BURKE: The costs are still being
9 finalized as the plans -- as we're proceeding. The
10 numbers I've heard in our last design meeting, which
11 was last week, was estimated \$23 million for
12 construction.

13 MR. VERCRUYSSSE: 23 million for construction.
14 Okay.

15 MR. DAN BURKE: Yes.

16 And, again, those are being finalized
17 and there's been somewhat significant fluctuation in
18 construction costs over the period of the last year
19 where they were -- there was runaway inflation.
20 We're hoping just with the turndown in the economy
21 and everything, we'll see much more aggressive bids
22 coming in.

1 MR. VERCRUYSSSE: Sure.

2 MR. DAN BURKE: Hopefully, some reconstruction
3 in costs. So there's been a variability.

4 MR. VERCRUYSSSE: Right.

5 Okay. The temporary bracing that was
6 in place for the piers and all of the other
7 structural support work held through the winter so
8 far? Everything is...?

9 MR. DAN BURKE: The bracings held. The viaduct
10 has continued to deteriorate. We've closed it to
11 truck traffic right now. It was two lanes in each
12 direction. As of two weeks ago, we reduced it to one
13 lane in each direction, cars only. All trucks are
14 detoured off the structure at this time.

15 MR. VERCRUYSSSE: The truck detour was just of
16 two weeks ago?

17 MR. DAN BURKE: Yes.

18 MR. VERCRUYSSSE: Okay. And your inspection
19 intervals are still consistent -- at what time?

20 MR. DAN BURKE: Six-month inspection intervals.

21 MR. VERCRUYSSSE: Okay. Construction agreement
22 with the CSX, has that -- I know we've just gotten

1 through the preliminary engineering agreement, but
2 that would be the next time frame. Has that draft --
3 I mean, it's all dependant upon their review of the
4 plans. I just know from our other projects we need
5 to move that as quickly as we can to try and attain
6 your schedule.

7 MR. PACE: Right.

8 Well, and as you probably know, we've
9 been working on developing an agreed upon
10 construction agreement with the Railroad -- between
11 the Railroad and the City of Chicago in another
12 docket and that's proceeding at this point. And,
13 hopefully, that work will be able to carry over to
14 this docket and we won't need to create a new
15 agreement.

16 MR. VERCRUYSSSE: Thank you.

17 Can I defer to Mr. Streicher? Did you
18 want to add a point to that or...?

19 MR. STREICHER: Yes, I have two points. But
20 I'm happy to wait until you're finished.

21 MR. VERCRUYSSSE: Actually, I'm fine with my
22 questions with Mr. Burke. Thank you. But I do need

1 to bring up some information relative to the Grade
2 Crossing Protection Fund. I can do that now or wait
3 till the end.

4 JUDGE KIRKLAND-MONTAQUE: Just give me one
5 second. Normally, I thought Mr. Burke was just going
6 to give us a brief update. But since he's provided
7 us with so much information, I'd like to swear you
8 in.

9 (Mr. Burke sworn.)

10 JUDGE KIRKLAND-MONTAQUE: Mr. Streicher.

11 MR. VERCRUYSSSE: I'm fine except for the Grade
12 Crossing Protection Fund.

13 JUDGE KIRKLAND-MONTAQUE: Why don't we save
14 that for last.

15 MR. VERCRUYSSSE: That's fine. Thank you.

16 MR. STREICHER: There were two things, and I --
17 if this sounds negative, I don't mean to because
18 Mr. Pace and Mr. Vercruysse and myself have worked
19 together on other projects to get them done even
20 under crunches, so I'm optimistic about that.

21 But one of the other concerns is going
22 to final order in this case in June if we're not

1 getting the plans till May. That could be
2 problematic as well, but I only want to raise that in
3 terms of the jumping through hoops that we have to
4 do.

5 As to the final construction
6 agreement, CSXT and the City of Chicago have worked
7 together on a number of matters before the Commission
8 trying to hammer out a, quote, form, quote, final
9 construction agreement. And, in fact, there is one
10 now that is undergoing further revision in another
11 project. So I hope as well that the final
12 construction agreement for this project will benefit
13 from all the negotiations we've done ahead of time.
14 It should.

15 JUDGE KIRKLAND-MONTAQUE: Go ahead,
16 Mr. Vercruysse.

17 MR. VERCRUYSSSE: One last question, your Honor.
18 I'm sorry.

19 Referring back to the petition I just
20 want to get the time frames. It asks for 36 months
21 to complete the project. It's been compressed into
22 the one-year schedule, and I'm --

1 MR. PACE: Yeah, we'll have to -- maybe that
2 was a typo. I'm not sure.

3 MR. VERCRUYSSSE: Right. We'll clarify that for
4 any order or whatever we might draft as a group,
5 but...

6 MR. PACE: Sure.

7 JUDGE KIRKLAND-MONTAQUE: Okay. I guess my
8 question kind of tags along off of Mr. Streicher's
9 and that is in terms of a Commission order, what
10 needs to be done by the parties before we get close
11 to that point?

12 MR. STREICHER: We need a final construction
13 agreement executed.

14 JUDGE KIRKLAND-MONTAQUE: Okay.

15 MR. STREICHER: Which, if the negotiation of
16 the terms is mostly done in other projects, then it
17 really, once again, just comes down to the plans in
18 this case and an approval of the plans.

19 MR. PACE: Could you tell us when you -- at
20 this point the agreement has been sent back to you by
21 an attorney for the City in that other docket. Do
22 you have kind of an idea of when you might be

1 responding to that?

2 MR. STREICHER: There's another matter pending
3 before the Commission where there is currently being
4 negotiated a final construction agreement that relied
5 on even a prior project. So that we're trying to get
6 to the form. And the City has made its comments by
7 Mr. Sheil -- S-h-e-i-l -- and that has been not going
8 through me this time, but is going directly to the
9 Legal Department at CSXT in an effort to expedite it.
10 And my understanding is that CSXT Legal is
11 communicating directly with Mr. Sheil as to that. So
12 that's ongoing.

13 JUDGE KIRKLAND-MONTAQUE: Okay. Thank you.

14 Mr. Vercruysse, you had an update or a
15 statement regarding the Grade Crossing Protection
16 Fund.

17 MR. VERCRUYSSSE: Yes, your Honor. Thank you.

18 Currently our fund has been fully
19 obligated for fiscal year '09 as of late January,
20 which has necessitated the comptroller contacting
21 IDOT, who pays the bills out for our fund, to put a
22 number of projects on hold until the fiscal year '10

1 starts July 1st.

2 We are moving certain projects
3 through, but we have to account for the bills that
4 are coming in and what you our monthly balance is for
5 the fund. This project has approximately \$2 million
6 of Grade Crossing Protection Funds that would be
7 associated and recommended by Staff. We would not be
8 able to have an order -- or be able to recommended an
9 order from Staff until that July 1st given our
10 limitations on the funding.

11 So it seems that we're close with the
12 letting schedule; but dependant upon how the
13 construction agreement plays out with the CSX, if
14 that's approved and everything is finalized by the
15 parties before our fiscal year starts, we might look
16 at maybe an interim order to authorize the project
17 with a follow-up for the funding, some sort of
18 variation. And it's my understanding that the City
19 can show that they can cover that \$2 million gap with
20 the reimbursable so that they can seek the letting
21 schedule and take care of their point of the project.
22 But until we get further in the process, that's just

1 a worst-case scenario for the Fund at this point.

2 JUDGE KIRKLAND-MONTAQUE: I see.

3 Anything further, Mr. Pace?

4 MR. PACE: Well, yeah, I just wanted to make a
5 couple other points. I know Mr. Streicher has worked
6 well with us in the past and we're looking forward to
7 the same cooperation here. I just want to point out
8 that the preliminary plans are scheduled to be sent
9 to you -- sent to the Railroad in March. And so it's
10 the final plans that would be ready in May.

11 And this is a significant project,
12 however, it's really where we're going over their
13 airspace. And we don't anticipate significant
14 disruption of their operations. So I just want to
15 mention that, that we think that, you know, once we
16 have the form completed and negotiated -- I'm not
17 sure if the plans will be of a nature that will
18 affect the Railroad's operation to a significant
19 degree. That's -- obviously we'll have to see the
20 plans. But I'm just -- that's our view at this
21 point.

22 MR. VERCRUYSSSE: I'm sorry. Yes. Can we ask,

1 as far as -- what do you anticipate, Mr. Burke, as
2 far as -- I thought I had heard track shutdown as one
3 of the points of discussion. Do you anticipate with
4 the pier work and other falsework that you have to
5 put in what sort of impacts you might have to the
6 Railroad just so they have an understanding? Or was
7 that conveyed in April of 2008 when those other
8 preliminary plans were sent?

9 MR. DAN BURKE: I apologize. I'm here on
10 behalf of the project manager. I believe that was
11 conveyed and those things have been discussed. I'm
12 not completely up to speed to --

13 MR. VERCRUYSSSE: Okay. So as far as work
14 windows or proximity to tracks or completing --

15 MR. DAN BURKE: It's my understanding those --
16 proximated track work windows -- shutdowns are always
17 part -- they're always part of the construction
18 agreement and --

19 MR. VERCRUYSSSE: But you're not clear on what
20 specifically might be a part of this project then?

21 MR. DAN BURKE: Well, there's going to be --

22 MR. VERCRUYSSSE: And it's fine if you aren't.

1 I just want to make sure --

2 MR. DAN BURKE: Right. Right.

3 MR. VERCRUYSSSE: -- because I thought I had

4 heard closure or track closure or shutdown for time

5 frames. And if there are no impacts --

6 MR. DAN BURKE: Right.

7 MR. VERCRUYSSSE: -- like Mr. Pace noted,

8 then --

9 MR. PACE: Well, I'm not saying no impacts.

10 I'm just saying not substantial.

11 MR. VERCRUYSSSE: Right.

12 MR. DAN BURKE: There are limited scope

13 impacts. During demolition of the existing structure

14 obviously you have to have track -- you have to have

15 track closures.

16 MR. VERCRUYSSSE: Right.

17 MR. DAN BURKE: How those are being worked out

18 with CSX Operations people, whether we can do it

19 during your normal operations and just work in

20 between train schedules and then it's all being --

21 it's my understanding that it's all -- it's finalized

22 in the construction agreement.

1 MR. VERCRUYSSSE: Right. Okay.

2 MR. STREICHER: If I can comment, Judge, on

3 that?

4 JUDGE KIRKLAND-MONTAQUE: Yes, you may.

5 MR. STREICHER: It would not be unusual for

6 there to be some impact on operations -- and the

7 construction agreement will deal with that. And

8 typically it is more an issue of just approval of the

9 plans by CSX and consultants rather than impact on

10 operations, especially if it's not substantial.

11 The other thing I would ask is that if

12 the City could keep me advised of when plans finally

13 do go out because this is but one of many projects

14 for CSXT. And I can keep my client updated as to

15 what the timing would be.

16 JUDGE KIRKLAND-MONTAQUE: Sure.

17 Okay. Well, is -- with that all in

18 mind, I'm thinking probably we need another status

19 before...

20 MR. PACE: Right. I was going to suggest --

21 the plans -- the preliminary plans are estimated to

22 go out March 13th.

1 JUDGE KIRKLAND-MONTAQUE: We can go off the
2 record.

3 (Whereupon, a discussion was had
4 off the record.)

5 JUDGE KIRKLAND-MONTAQUE: We can go back on the
6 record.

7 This matter will be continued to
8 Tuesday, April 21st, 2009, at 10:00 a.m. here in
9 Chicago. Thank you.

10 (Whereupon, the above-entitled
11 matter was continued to
12 April 21, 2008, at 10:00 a.m.)

13
14
15
16
17
18
19
20
21
22